Exhibit "B"

CAUSE NO. 94420

ANDREA M. LOPEZ, Individually	§	IN THE DISTRICT COURT OF
and as Next Friend of A.L., V.L.,	§	
and L.L., Minors,	§	
Plaintiffs,	§	
	§	
VS.	§	ELLIS COUNTY, TEXAS
	§	
WARREN TRANSPORT, INC. and	§	
SEDZAD ELKAZ,	§	40 th JUDICIAL DISTRICT
Defendants.	§	

INDEX OF STATE COURT FILE

TAB	FILED	DOCUMENT
В.		State Court File
1.	N/A	Court's Docket Sheet
2.	08/24/2016	Plaintiff's Original Petition
3.	08/24/2016	E-Filing Request for Issuance-Citations, Writs, Notice, Precept, TRO, Etc.
4.	08/24/2016	Civil Case Information Sheet
5.	08/29/2016	Citation for Warren Transport, Inc.

1

Case 3:16-cv-02755-G-BN_Document 1-2 Filed 09/28/16 Page 4 of 20 PageID 13

WARREN TRANSPORT, INC. # 94420



PAGE	

PLAINTIFF/PETITIONER'S AT DEFENDANT/RESPONDENT'S REPORTER:	* C V 9 4 4 2 0 *	
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Case 3:16-cv-02755-G-BN Document 1-2 Filed 09/28/16 Page 6 of 20 Page D 15
Ellis County - 40th District Court Melanie Reed

- 40th District Court	Melanie Reed
	District Clerk
	Ellis County, Texas
04420	

NO	20	-
ANDREA M. LOPEZ, INDIVIDUALLY AND AS NEXT FRIEND OF A.L., V.L. AND L.L., Minors	U	THE DISTRICT COURT OF
V.	<i>§</i> EI	LLIS COUNTY, TEXAS
WARREN TRANSPORT, INC. AND SEDZAD ELKAZ	§ §	JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Andrea M. Lopez, Individually and As Next Friend of A.L., V.L. and L.L., minors, hereinafter called Plaintiffs, complaining of Warren Transport, Inc. and Sedzad Elkaz, hereinafter called Defendants, and for cause of action would respectfully show the Court the following:

- 1. Discovery is intended to be conducted under Level 3, Texas Rules of Civil Procedure, 190.3.
 - 2. Plaintiffs are resident citizens of Webb County, Texas.
- 3. Defendant, Warren Transport, Inc., is a Nebraska corporation duly authorized to do business in the State of Texas and is doing business in and maintaining its South Texas Location in Laredo, Texas. This Defendant may be served with process by serving its registered agent, Kenneth R. Nelson, 319 Pinto Valle Drive, Laredo, Texas 78045.
- 4. The Defendant, Sedzad Elkaz, is a nonresident of the State of Texas and was involved in a collision while operating a motor vehicle in the State of Texas. As such under the Texas Long-Arm Jurisdiction over nonresident Motor Vehicle Operator found in V.T.C.A., Civil Practice & Remedies Code, Chapter 17, Subchapter D § 17.061, 17.062, 17.063 and 17.064. Under these circumstances, The Chairman of the Texas

Transportation Commission is an agent for service of process on Defendant, Piotr Klonowski. Furthermore, the cause of action alleged herein arises out of acts and omissions of Sedzad Elkaz occurring in the State of Texas. Sedzad Elkaz may be served with service of process by serving The Chairman of the Texas Transportation Commission, Tyron D. Lewis, 125 E. 11th Street, Austin, Texas 78701-2483. The Chairman of the Texas Transportation Commission shall mail to the nonresident a copy of the process and notice that the process has been served on the Chairman by registered mail, or by certified mail, return receipt requested, with postage prepaid, to Sedzad Elkaz, 2623 57th St., Des Moines, lowa 50310.

- 5. This Court has venue of this case in that the incident made the basis of this lawsuit and the acts and/or omissions that caused this incident and all or a substantial portion of the acts or events giving rise to the cause of action and the acts and/or omissions of negligence that proximately caused the occurrence in question and the injuries and damages sustained by your Plaintiff occurred within the territorial limits of Ellis County, Texas. This suit is for compensatory damages in an amount in excess of the minimum jurisdictional limits of this Court arising from an alleged negligence cause of action. This Court, therefore, has jurisdiction of this cause.
- 6. The following allegations are made without full discovery of the contentions and evidence known to Defendants and therefore are subject to supplementation and/or amendment based on further investigation. On or about the 20th day of June, 2016, your Plaintiff, Andrea M. Lopez, was operating her vehicle and the minor Plaintiffs, A.L., V.L. and L.L., were passengers in said vehicle traveling on IH 35 within Italy, Ellis County, Texas. While traveling on IH 35 within Italy, Ellis County, Texas an 18-wheeler commercial

motor vehicle (CMV) was merging onto IH 35 and struck the vehicle operated/occupied by your Plaintiffs. It is believed that the aforementioned 18-wheeler CMV was being operated by Defendant, Sedzad Elkaz, within the course and scope of his employment and in the furtherance of the business affairs of Defendant, Warren Transport, Inc. There was an employee/employer relationship and/or a statutory employee/employer relationship that existed at the time and on the occasion of the occurrence in question. It is also believed that the aforementioned 18-wheeler CMV was owned and/or operated at the time of the occurrence in question by Defendant, Warren Transport, Inc.

- 7. The incident made the basis of this lawsuit and the injuries and damages sustained by your Plaintiffs, as applicable and as the evidence will show, were proximately caused from the events in question and from the negligent acts and/or omissions of the Defendant driver, Sedzad Elkaz, acting with the course and scope of his employment and in the furtherance of his business affairs, as referenced above, as follows:
 - a) Failure to keep a proper lookout;
 - b) Failure to control speed;
 - c) Failure to timely apply brakes;
 - d) Failure to yield right-of-way;
 - e) Failure to control his vehicle to avoid a collision;
 - f) Failing to drive in a single marked lane of traffic (negligence per se);
 - g) Changing lanes when unsafe (negligence per se);
 - h) Merging into highway traffic when unsafe to do so (negligence per se);
 - i) Distracted and/or fatigued driving; and

j) Violation of the Federal and State Motor Vehicle Safety Regulations concerning hours of service and driver qualification requirements related to driver competence, safety and background (negligence per se).

The above acts and/or omissions of negligence and negligence per se, as applicable, singularly or in combination, proximately caused the occurrence in question and the injuries and damages sustained by your Plaintiffs. Discovery is at its infancy in this case. Further information and evidence on these issues are, at this time, within the knowledge of Defendant(s) and not Plaintiff(s). However, this information can and will be obtained through legal discovery efforts that may possibly require additional or different allegations. Plaintiff(s) reserves the right to amend and/or supplement as allowed by the Texas Rules of Civil Procedure.

8. Plaintiff also alleges that Defendant, Warren Transport, Inc., committed acts and/or omissions of negligent entrustment and/or negligence in providing the means for Sedzad Elkaz to be entrusted and/or provided the motor vehicle in question to an unlicensed, incompetent, unsafe, dangerous or reckless driver, and in violation of the State or Federal Motor Carrier Safety Regulations, as applicable, relating to driver qualification and competence, medical qualifications, hours of service, as applicable, such negligence, being a proximate cause of the collision and of the injuries and damages suffered by Plaintiffs. Discovery is at its infancy in this case. Further information and evidence on these issues are, at this time, within the knowledge of Defendant(s) and not Plaintiff(s). However, this information can and will be obtained through legal discovery efforts that may possibly require additional or different allegations. Plaintiff(s) reserves the right to amend and/or supplement as allowed by the Texas Rules of Civil Procedure.

- 9. As a result of the acts and/or omissions that caused the injuries and damages referenced above, your Plaintiff, Andrea M. Lopez, alleges that she sustained physical injuries and damages from which she now suffers and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, loss of earning capacity and the incurring of medical and hospital bills and expenses in the past and in the future. Plaintiff, Andrea M. Lopez, sues for these damages in an amount within the minimum jurisdictional limits of the Court, over \$200,000.00 but not more than \$1,000,000.00.
- 10. As a direct and proximate result of the negligence of the Defendants referenced above, your minor Plaintiff, A.L., through the next Friend for A.L., a Minor, alleges that she sustained physical injuries and damages from which she now suffers and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, loss of earning capacity and the incurring of medical and hospital bills and expenses in the past and in the future (through her next friend until age 18, as applicable, thereafter in her own right as allowed by law) and sues for these damages in an amount within the minimum jurisdictional limits of the Court, over \$200,000.00 but not more than \$1,000,000.00.
- 11. As a direct and proximate result of the negligence of the Defendants referenced above, your minor Plaintiff, V.L., through the next Friend for V.L., a Minor, alleges that she sustained physical injuries and damages from which she now suffers and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, loss of earning capacity and the incurring of medical and hospital bills and expenses in the past and in the future (through her next friend until age

- 18, as applicable, thereafter in her own right as allowed by law) and sues for these damages in an amount within the minimum jurisdictional limits of the Court, over \$200,000.00 but not more than \$1,000,000.00.
- 12. As a direct and proximate result of the negligence of the Defendants referenced above, your minor Plaintiff, L.L., through the next Friend for L.L., a Minor, alleges that she sustained physical injuries and damages from which she now suffers and in all probability will continue to suffer into the future in terms of physical pain, mental anguish, physical impairment, loss of earning capacity and the incurring of medical and hospital bills and expenses in the past and in the future (through her next friend until age 18, as applicable, thereafter in her own right as allowed by law) and sues for these damages in an amount within the minimum jurisdictional limits of the Court, over \$200,000.00 but not more than \$1,000,000.00.
- 13. The Plaintiffs also sue for pre-judgment and post-judgment interest on the items of damages allowed by law.
 - 14. Plaintiffs demand a trial by jury on this case.

WHEREFORE PREMISES CONSIDERED, Plaintiffs pray that the Defendants be cited in terms of law to appear and answer herein and that upon final hearing Plaintiffs do have and recover of, from and against the Defendants, jointly and severally, their compensatory damages as referenced above all in amounts in excess of the minimum jurisdictional limits of this Court, pre-judgment and post-judgment interest, costs of court, trial by jury, and for such other and further relief, in law and in equity to which Plaintiffs may show themselves justly entitled.

Respectfully submitted, LAW OFFICE OF GENE S. HAGOOD 1520 E. Highway 6 Alvin, Texas 77511 (281)331-5757 Fax: (281)331-1105

Email: firm@h-nlaw.com

BY: /s/ Gene S. Hagood

GENE S. HAGOOD SBN 08698400 JESSIE J. ORMAND SBN 24098209 H. EMERSON GROGRO SBN 24087634 Attorneys for Plaintiff

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Melanie Reed District Clerk Ellis County, Texas

Ellis County - 40th District Court

Ellis County District Clerk

Questions: 972-825-5091

E-FILING REQUEST FOR ISSUANCE CITATIONS, WRITS, NOTICE, PRECEPT, TRO, ETC..

- This document Must be filed as a separate LEAD document when e-filing
- Choose the filing code "Request" and add the type of issuance in the description field
- Select the type of issuance using the "Optional Services" section on the e-filing screen.
- If a service document is required, you MUST add the copies using the "Optional Services" section, select Certified Copies/Regular Copies and add as many pages as needed.(Ex: Petition is 5 pages, 3 citations are requested: 5x3=15 pages will need to be printed by Clerk at \$1.00 per page).

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PLEASE USE THIS FORM WHEN REQUESTING ISSUANCE OF THE BELOW LISTED TYPES OF ISSUANCE THROUGH THE E-FILING SYSTEM.

PLEASE USE OTHER REQUEST FORMS FOR: ABSTRACTS, EXECUTIONS, SUBPOENAS AND ORDER WITHHOLDING

Please select the type and quantity of issuance(s) needed:

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Notice	\$8	,	Writ: Certiorari	\$8	
Precept	\$8		Writ: Commitment	\$8	
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Show Cause Notice	\$8		Writ: Turnover	\$8	
			Writ: Other	\$8	

All service payment options are chosen by picking the correct options in the "Optional Service" section of e-filing

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THE STATE OF TEXAS COUNTY OF ELLIS **CAUSE NO: 94420 CITATION**

TO: WARREN TRANSPORT, INC. REG. AGENT, KENNETH R. NELSON 319 PINTO VALLE DR **LAREDO, TX 78045**

Defendant, in the hereinafter styled and numbered cause: 94420

You are hereby commanded to appear before 40TH JUDICIAL DISTRICT COURT of ELLIS COUNTY, TEXAS to be held at the courthouse of said county in the City of Waxahachie, County of Ellis County, Texas, by filing a written answer to the petition of Plaintiff at or before 10:00 A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number 94420 styled

LOPEZ, ANDREA M, INDIVIDUALLY & AS NEXT FRIEND A.L., V.L. & L.L., MINORS

WARREN TRANSPORT, INC. AND ELKAZ, SEDZAD

Filed in said court on the 08/24/2016

The name and address of the attorney for plaintiff; or the address of the plaintiff is: GENES HAGOOD, 1520 E. HIGHWAY 6 ALVIN, TX 77511.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you,"

WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 25th day of August, 2016.

> Melanie Reed, District Clerk 109 S. Jackson Street Rm. 209 Waxahachie, TX 75165

Mary Hinds Deputy

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only **E**ħ22 Certified Mail Fee Extra Services & Fees (check box, add fee as appropriate, Return Receipt (hardcopy) 0007 Return Receipt (electronic) Postmark Certified Mail Restricted Delivery Here Adult Signature Required Adult Signature Restricted Delivery \$ WARREN TRANSPORT, INC. 94420, CM#70151730000177439582 REG AGENT, KENNETH R. NELSON

319 PINTO VALLE DR. LAREDO, TX 78045

'S Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instruction:

OFFICER'S RETURN - CAUSE # 94420

LOPEZ, ANDREA M, INDIVIDUALLY & AS NEXT FRIEND A.L., V.L. & L.L., MINORS -VS-

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

WARREN TRANSPORT, INC. & ELKAZ, SEDZAD

NAME AND ADDRESS FOR SERVICE: WARREN TRANSPORT, INC.

REG. AGENT, KENNETH R. NELSON 319 PINTO VALLE DR LAREDO, TX 78045

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